

**Performance Partnership Agreement (SFY 2014 –2016)**  
**New Jersey Department of Environmental Protection**  
**and**  
**U.S. Environmental Protection Agency, Region 2**

**SUMMARY**

The New Jersey Department of Environmental Protection (NJDEP) and the Environmental Protection Agency Region 2 (EPA) are entering into another Performance Partnership Agreement (PPA). The Agreement is for a three year time period (State Fiscal Years 2014 through 2016). On an annual basis, both agencies will reopen the PPA to include any items in the PPA that require revision. Both agencies further recognize that New Jersey's efforts to rebuild from the devastation caused by Hurricane Sandy may require revisions to this PPA because of the State's need to reassign resources to Hurricane Sandy rebuild efforts. This recognition of programmatic flexibility is memorialized further below.

This PPA describes our continued shared agenda for environmental progress in the State of New Jersey, our measures to evaluate this progress and agreed-upon strategies to reach our mutual goals. This plan furthers the partnership for environmental protection in the State while also articulating our expectations for the state/federal relationship. The PPA also serves as the work plan for the Performance Partnership Grant (PPG), the funding vehicle for awarding combined applicable PPA environmental programs funds under a single grant. For SFY 2014 through 2016, the areas to be covered under this PPA include:

- Air pollution control (Section 105 of the Clean Air Act)
- State indoor radon grants (Section 306 of the Toxic Substances Control Act)
- Water pollution control (Section 106 of the Clean Water Act)
- Nonpoint source management (Section 319(h) of the Clean Water Act)
- Public water system supervision (Section 1443(a) of the Safe Drinking Water Act)
- Underground water source protection (Section 1443(b) of the Safe Drinking Water Act)
- Hazardous waste management (Section 3011(a) of the Solid Waste Disposal Act)
- Pesticide cooperative enforcement (Section 23(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act)
- Pesticide applicator certification and training (Section 23(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act)
- Pesticide program implementation (Section 23(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act)

## **BACKGROUND**

The PPA sets forth environmental directions for the State of New Jersey. This agreement declares the intent of NJDEP and EPA to work together during State Fiscal Years 2014 – 2016 in pursuit of a partnership in environmental protection for the State of New Jersey. This document supports the National Environmental Partnership Programs System (NEPPS) process, which is an approach designed to foster identification of state environmental priorities and goals, and to allow states to better direct federal resources to address priorities.

### **Performance Measurement, Oversight, and Review**

There are numerous federal programs currently delegated to NJDEP. The parties will work together whenever there are major changes to relevant federal statutes or regulations to ensure the delegated state program remains equivalent to the federal program. NJDEP, by virtue of delegated program authorities and as recipient of EPA grant funds, plays an integral part in achieving the EPA's Government Performance and Results Act (GPRA's) goals and objectives, and NJDEP's priorities. As such, NJDEP and EPA Region 2 agree to measurable outcomes and outputs in assessing performance progress.

This PPA reflects the mutual understandings reached between the two parties for program implementation and extent of oversight. EPA's role is to oversee the implementation of State-authorized programs, to provide technical and analytical support for State-authorized programs, and to directly implement non-authorized programs, in most cases with State assistance.

It is envisioned that EPA's level of detailed review and approval of State program activities will continue to decrease. As further evidence of the benefits from a true partnership, EPA will provide the necessary flexibility to State programs where needed and will carry out activities that complement State actions to achieve these program objectives. EPA will direct additional Regional resources, in the form of technical and financial assistance, policy development, and technical/scientific information toward these objectives by targeting program activities and discretionary resources to meet State management program needs.

## **WHY A PPA?**

EPA and NJDEP recognize that there are several key reasons to formalize its relationship through a PPA rather than a traditional individual program workplan relationship:

- a. Strengthen partnership between EPA and NJDEP through joint planning and priority-setting and better deployment of resources;
- b. Allow for comprehensive planning through a complete set of commitments
- c. Give NJDEP greater flexibility to shift resources to address priority needs
- d. Enable NJDEP to fund cross cutting efforts that are difficult to support with traditional grants
- e. Foster use of innovative strategies for solving water, air and waste problems
- f. Enable work load to be divided more efficiently between federal and state agencies
- g. Increase focus on environmental results and program effectiveness
- h. Improve coordination of compliance and enforcement efforts
- i. Foster reduced reporting burden and improved information management (ease of tracking)

## **COMPONENTS OF THE PPA**

The NJDEP PPA has the following major components:

- I. Workplan: Spreadsheet of funded commitments
- II. FY 2014 – 2016 PPA Narrative

## **PERFORMANCE PARTNERSHIP GRANT**

With this effort to establish a Performance Partnership Agreement, the NJDEP will be issued a Performance Partnership Grant (PPG), pursuant to 40 CFR 35.130. Federal legislation allows a number of grants, awarded by the EPA, to be combined into a single PPG. This arrangement affords the State greater flexibility to address its highest priorities, and should continue to result in administrative and programmatic savings.

## **GOVERNMENT PERFORMANCE AND RESULTS ACT GOALS**

EPA and the states worked together to modify the EPA grant regulations in 40 CFR Part 35. The National Environmental Performance Partnership regulations were intended to promote state-EPA collaboration, provide opportunities for innovation, and reduce paperwork while ensuring sound fiscal management and accountability for environmental performance in a manner consistent with NEPPS. For example, EPA hopes to foster joint planning and priority setting by explicitly requiring that state priorities and needs be considered, in negotiating grant work plans, along with the GPRA Goal and Objective architecture, and national and regional guidance. Under this rule, a state can choose to organize its grant work plans in accordance with environmental goals and objectives, or in other new ways, rather than using categories pre-defined by EPA. However, EPA must be able to link the grant work plan to EPA's GPRA goal and objective architecture. The EPA's reports of Agency resources associated with outcomes and outputs will incorporate at the GPRA goal, objective, and sub-objective level expenditures incurred in the form of payments under the PPG. EPA and NJDEP believe that this PPA furthers the objectives represented by NEPPS and demonstrates significant progress in our joint planning effort.

## **PROGRAMMATIC FLEXIBILITY**

If approved by the EPA Regional Administrator, a PPG can also provide the State with programmatic flexibility to increase efforts in some program areas where the State's needs are greater and decrease them in others where the State's needs are less. In applying for programmatic flexibility, the State agency must provide a rationale commensurate with the type and amount of flexibility being proposed, explaining the basis for the State's priorities and the environmental or other benefits it expects to achieve. The State must also assure that basic programs are maintained for all programs combined in the grant. The Regional Administrator and NJDEP Commissioner will negotiate regarding the environmental and other information that EPA needs to make a decision regarding the application for flexibility. Information useful in supporting a State's proposal for programmatic flexibility may already exist, such as in a PPA, a recent water quality report, or a previous grant evaluation. Such information should be used to the extent possible to minimize duplication of effort.

Both partners recognize that New Jersey is still actively recovering from Hurricane Sandy. In light of the ongoing and substantial NJDEP effort required to address the extraordinary circumstances of this storm, EPA will reasonably grant flexibility if adjustments in timing or content of commitments is at times necessary.

## **PROGRAM REVIEW PROCESS**

40 CFR 35.115 states that “the applicant and the Regional Administrator will develop a process for jointly evaluating and reporting progress and accomplishments under the work plan. A description of the evaluation process and a reporting schedule must be included in the work plan. The schedule must require the recipient to report at least annually and must satisfy the requirements for progress reporting under 40 CFR 31.40(b).” 40 CFR 31.40(b)(2) states that “performance reports will contain, for each grant, brief information on the following: (i) a comparison of actual accomplishments to the objectives established for the period...[and] (ii) the reasons for slippage if established objectives were not met.”

The following mechanisms shall be used to document and evaluate progress and accomplishments under the PPA:

- Many of items in the Spreadsheet of PPG-funded commitments include an element of progress reporting to individual EPA programs.
- NJDEP will prepare a spreadsheet-based Annual Performance Report for EPA at the end of each state fiscal year with brief information outlining: a comparison of actual accomplishments for each individual PPG-funded commitment for that annual period as well as reasons for slippage and mid-course corrections to address deficiencies.
- Whether as part of national or regional initiatives, EPA Region 2 may undertake an individual program review. For example, EPA in the past has undertaken a "state enforcement program review" in New Jersey. It is likely that such a review may again be conducted. EPA and NJDEP will work together towards this effort in a manner that will minimize disruption to the program, while achieving the stated objectives of the review.

NJDEP will produce a spreadsheet-based APR for the previous fiscal year by September 30 of each year, starting on September 30, 2014. In order to accomplish this, NJDEP will submit a draft APR to EPA by July 30 of each year. In addition, in the spirit of NJDEP and EPA’s recommitment to the NEPPS process and, in particular, a minimization of duplication of progress reporting, where appropriate, the APR will reference other program review mechanisms such as the other two types of program review mechanisms in the list above. This approach will allow the APR to be an overall program review, proving primary progress reporting and referencing other program review mechanisms where appropriate.

NJDEP and EPA will also work in partnership to consider any appropriate changes to the Spreadsheet of PPG-funded commitments for upcoming state fiscal years. This will occur primarily during the late-spring/summer timeframe, to be consistent with EPA’s process of establishing annualized commitments between the Region and EPA National Program Offices, consistent with National Program Managers’ guidance.

**SFY 2014 – 2016 Annual Performance Report and  
Performance Partnership Agreement Workplan Schedule**

<b>SFY 2014 - 2016 APR</b>		
	<b>Activities</b>	<b>Due Date</b>
<b>Calendar Year 2014</b>		
1.	NJDEP submits the draft SFY 2014 APR	7/29/2014
2.	EPA transmits comments to NJDEP	8/15/2014
3.	NJDEP submits final SFY 2014 APR to Region 2	9/30/2014
<b>Calendar Year 2015</b>		
4.	NJDEP submits the draft SFY 2015 APR	7/31/2015
5.	EPA transmits comments to NJDEP	8/17/2015
6.	NJDEP submits final SFY 2015 APR to Region 2	9/28/2015
<b>Calendar Year 2016</b>		
7.	NJDEP submits the draft SFY 2016 APR/Closeout Report	7/29/2016
8.	EPA transmits comments to NJDEP	8/16/2016
9.	NJDEP submits final SFY 2016 APR/Closeout Report to Region 2	9/30/2016

<b>SFY 2014 and SFY 2016 PPA Workplan</b>		
	<b>Activities</b>	<b>Due Date</b>
<b>Calendar Year 2014</b>		
1.	NJDEP and EPA negotiate new items in the 2015 PPA that require revisions (e.g., add any new commitments, delete unnecessary commitments)	4/1/2014 – 5/11/2014
2.	NJDEP submits draft SFY 2015 PPA work plan commitments to Region 2	5/12/2014
3.	EPA transmits comments to NJDEP	5/26/2014
4.	Resolve any remaining PPA issues	6/9/2014
5.	NJDEP submits final SFY 2015 PPA work plan commitments	6/16/2014
6.	EPA approves the final 2012 PPA.	6/30/2014
<b>Calendar Year 2015</b>		
7.	NJDEP and EPA negotiate new items in the 2016 PPA that require revisions (e.g., add new commitments, delete unnecessary commitments)	4/1/2015 – 5/8/2015
8.	NJDEP submits draft SFY 2016 PPA work plan commitments to Region 2	5/11/2015
9.	EPA transmits comments to NJDEP	5/25/2015
10.	Resolve any remaining PPA issues	6/8/2015
11.	NJDEP submits final SFY 2016 PPA work plan commitments	6/15/2015
12.	EPA approves the final 2016 PPA.	6/29/2015